

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

BECKLEY

MICHAEL CEHOUSKY,

Plaintiff,

v.

Case No. 5:07-cv-00468

T.R. CRAIG, Warden,
FCI Beckley,

Defendant.

PROPOSED FINDINGS AND RECOMMENDATION

Plaintiff filed this civil action on July 31, 2007, seeking a Temporary Restraining Order to preclude the Defendant from enforcing Plaintiff's Inmate Financial Responsibility Program contract. (Docket sheet document # 2). This matter is assigned to the Honorable Thomas E. Johnston, United States District Judge, and it is referred to the undersigned United States Magistrate Judge for submission of proposed findings and a recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

On November 2, 2007, the undersigned entered an "Order and Notice" advising Plaintiff that if he did not pay the \$350.00 filing fee or file an Application to Proceed Without Prepayment of Fees and Costs on or before **November 20, 2007**, the undersigned United States Magistrate Judge would recommend that the presiding District Judge dismiss this matter without prejudice for failure to prosecute.

As of today's date, Plaintiff has not paid the \$350 filing fee or filed an Application to Proceed Without Prepayment of Fees and Costs. There is no indication that any mail sent to Plaintiff at FCI Beckley has been returned to the court as undeliverable.

For these reasons, the undersigned proposes that the presiding District Judge **FIND** that Plaintiff has wholly failed to prosecute this civil action. Accordingly, it is respectfully **RECOMMENDED** that the presiding District Judge **DISMISS** this matter without prejudice for failure to prosecute.

Plaintiff is notified that this Proposed Findings and Recommendation is hereby **FILED**, and a copy will be submitted to the Honorable Thomas E. Johnston, United States District Judge. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(e) and 72(b), Federal Rules of Civil Procedure, Plaintiff shall have ten days (filing of objections), and then three days (service/mailing), from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this Court, specific written objections, identifying the portions of this Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted by the presiding District Judge for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of de novo review by the District Court and a

waiver of appellate review by the Circuit Court of Appeals. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984). Copies of such objections shall be served on Judge Johnston and this Magistrate Judge.

The Clerk is directed to file this Proposed Findings and Recommendation and to mail a copy of the same to Plaintiff.

December 5, 2007

Date

Mary E. Stanley
Mary E. Stanley
United States Magistrate Judge